

SECOND REGULAR SESSION

# HOUSE BILL NO. 2142

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE RIBACK WILSON (25).

Read 1<sup>st</sup> time March 11, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

5038L.011

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### AN ACT

To repeal sections 192.016 and 453.030, RSMo, and to enact in lieu thereof two new sections relating to paternity.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 192.016 and 453.030, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 192.016 and 453.030, to read as follows:

192.016. 1. The department of health and senior services shall establish a putative father  
2 registry which shall record the names and addresses of:

3 (1) Any person adjudicated by a court of this state to be the father of a child born out of  
4 wedlock;

5 (2) Any person who has filed with the registry before or after the birth of a child out of  
6 wedlock, a notice of intent to claim paternity of the child;

7 (3) Any person adjudicated by a court of another state or territory of the United States  
8 to be the father of an out-of-wedlock child, where a certified copy of the court order has been  
9 filed with the registry by such person or any other person.

10 2. A person filing a notice of intent to claim paternity of a child or an acknowledgment  
11 of paternity shall file the acknowledgment affidavit form developed by the state registrar which  
12 shall include the minimum requirements prescribed by the Secretary of the United States  
13 Department of Health and Human Services pursuant to 42 U.S.C. Section [652(2)(7)] **652 (a)(7)**.

14 3. A person filing a notice of intent to claim paternity of a child shall notify the registry  
15 of any change of address.

16 4. A person who has filed a notice of intent to claim paternity may at any time revoke

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 a notice of intent to claim paternity previously filed therewith and, upon receipt of such  
18 notification by the registry, the revoked notice of intent to claim paternity shall be deemed a  
19 nullity nunc pro tunc.

20 5. An unrevoked notice of intent to claim paternity of a child may be introduced in  
21 evidence by any party, other than the person who filed such notice, in any proceeding in which  
22 such fact may be relevant.

23 6. The department shall, upon request and within two business days of such request,  
24 provide the names and addresses of persons listed with the registry to any court or authorized  
25 agency, or entity or person named in section 453.014, RSMo, and such information shall not be  
26 divulged to any other person, except upon order of a court for good cause shown.

27 7. The department of health and senior services shall:

28 (1) Prepare forms for registration of paternity and an application for search of the  
29 putative father registry;

30 (2) Produce and distribute a pamphlet or publication informing the public about the  
31 putative father registry, including the procedures for voluntary acknowledgment of paternity, the  
32 consequences of acknowledgment and failure to acknowledge paternity pursuant to section  
33 453.010, RSMo, and the address of the putative father registry. Such pamphlet or publication  
34 shall be made available for distribution at all offices of the department of health and senior  
35 services. The department shall also provide such pamphlets or publications to the department  
36 of social services, hospitals, libraries, medical clinics, schools, universities, and other providers  
37 of child-related services upon request;

38 (3) Provide information to the public at large by way of general public service  
39 announcements, or other ways to deliver information to the public about the putative father  
40 registry and its services.

453.030. 1. In all cases the approval of the court of the adoption shall be required and  
2 such approval shall be given or withheld as the welfare of the person sought to be adopted may,  
3 in the opinion of the court, demand.

4 2. The written consent of the person to be adopted shall be required in all cases where  
5 the person sought to be adopted is fourteen years of age or older, except where the court finds  
6 that such child has not sufficient mental capacity to give the same.

7 3. With the exceptions specifically enumerated in section 453.040, when the person  
8 sought to be adopted is under the age of eighteen years, the written consent of the following  
9 persons shall be required and filed in and made a part of the files and record of the proceeding:

10 (1) The mother of the child; and

11 (2) Any man who:

12 (a) Is presumed to be the father pursuant to the subdivisions (1), (2), **or** (3) [or (5)] of

13 subsection 1 of section 210.822, RSMo; or

14 (b) Has filed an action to establish his paternity in a court of competent jurisdiction no  
15 later than fifteen days after the birth of the child; or

16 (c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice  
17 of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen  
18 days after the child's birth, and has filed an action to establish his paternity in a court of  
19 competent jurisdiction no later than fifteen days after the birth of the child; or

20 (3) The child's current adoptive parents or other legally recognized mother and father.

21

22 Upon request by the petitioner and within one business day of such request, the clerk of the local  
23 court shall verify whether such written consents have been filed with the court.

24 4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section  
25 may be executed before or after the commencement of the adoption proceedings, and shall be  
26 acknowledged before a notary public. In lieu of such acknowledgment, the signature of the  
27 person giving such written consent shall be witnessed by the signatures of at least two adult  
28 persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses  
29 shall not be the prospective adoptive parents or any attorney representing a party to the adoption  
30 proceeding. The notary public or witnesses shall verify the identity of the party signing the  
31 consent.

32 5. The written consent required in subdivision (1) of subsection 3 of this section by the  
33 birth parent shall not be executed anytime before the child is forty-eight hours old. Such written  
34 consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment,  
35 the signature of the person giving such written consent shall be witnessed by the signatures of  
36 at least two adult persons who are present at the execution whose signatures and addresses shall  
37 be plainly written thereon and who determine and certify that the consent is knowingly and freely  
38 given. The two adult witnesses shall not be the prospective adoptive parents or any attorney  
39 representing a party to the adoption proceeding. The notary public or witnesses shall verify the  
40 identity of the party signing the consent.

41 6. The written consents shall be reviewed and, if found to be in compliance with this  
42 section, approved by the court within three business days of such consents being presented to the  
43 court. Upon review, in lieu of approving the consent within three business days, the court may  
44 set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and  
45 approve the written consent within three business days shall not void the consent, but a party may  
46 seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set  
47 by the court pursuant to this subsection.

48 7. The written consent required in subsection 3 of this section may be withdrawn anytime

49 until it has been reviewed and accepted by a judge.

50           8. A consent form shall be developed through rules and regulations promulgated by the  
51 department of social services. No rule or portion of a rule promulgated under the authority of  
52 this section shall become effective unless it has been promulgated pursuant to the provisions of  
53 chapter 536, RSMo. If a written consent is obtained after August 28, 1997, but prior to the  
54 development of a consent form by the department and the written consent complies with the  
55 provisions of subsection 9 of this section, such written consent shall be deemed valid.

56           9. However, the consent form must specify that:

57           (1) The birth parent understands the importance of identifying all possible fathers of the  
58 child and shall provide the names of all such persons unless the mother has good cause as to why  
59 she should not name such persons. The court shall determine if good cause is justifiable. By  
60 signing the consent, the birth parent acknowledges that those having an interest in the child have  
61 been supplied with all available information to assist in locating all possible fathers; and

62           (2) The birth parent understands that if he denies paternity, but consents to the adoption,  
63 he waives any future interest in the child.

64           10. The written consent to adoption required by subsection 3 and executed through  
65 procedures set forth in subsection 5 of this section shall be valid and effective even though the  
66 parent consenting was under eighteen years of age, if such parent was represented by a guardian  
67 ad litem, at the time of the execution thereof.

68           11. Where the person sought to be adopted is eighteen years of age or older, his written  
69 consent alone to his adoption shall be sufficient.

70           12. A birth parent, including a birth parent less than eighteen years of age, shall have the  
71 right to legal representation and payment of any reasonable legal fees incurred throughout the  
72 adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

73           (1) A birth parent requests representation;

74           (2) The court finds that hiring an attorney to represent such birth parent would cause a  
75 financial hardship for the birth parent; and

76           (3) The birth parent is not already represented by counsel.

77           13. Except in cases where the court determines that the adoptive parents are unable to  
78 pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall  
79 order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid  
80 by the prospective adoptive parents or the child-placing agency.